

08.01.01.R2.01 Civil Rights Process for Employee and Third Party

Approved August 14, 2020
Revised August 18, 2022
Next Scheduled Review: August 18, 2027



Procedure Summary

In accordance with System Regulation 08.01.01, this procedure is intended to create a process for receiving, investigation and prompt and equitable resolution of discrimination, harassment and/or related retaliation based on a protected class filed against employees and third parties.

Texas A&M University-Commerce will provide equal opportunity for employment to all persons regardless of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation or gender identity and will strive to achieve full and equal employment opportunity throughout the university.

Procedures and Responsibilities

1 RESPONSIBILITY OF THE UNIVERSITY ETHICS & COMPLIANCE OFFICE

The University Ethics & Compliance Office is the responsible office for receiving, investigation and prompt and equitable resolution of discrimination, harassment and/or related retaliation (Discrimination) complaints against an employee or third party based on a protected class.

2 CIVIL RIGHTS COMPLAINT PROCESSING

2.1 Complaints

2.1.1 The Civil Rights Administrator/Title IX Coordinator will immediately notify and implement immediate and appropriate supportive measures by all levels of supervision. Reports will be made to the System Ethics and Compliance Office (SECO) and Office of General Counsel (OGC) of receipt of a complaint of discrimination within two business days.

2.2 Investigation and Adjudications

- 2.2.1 The Title IX Coordinator will conduct a preliminary review of the complaint to assess if there is sufficient information to proceed with an investigation or if additional information is needed.
- 2.2.2 If it is determined that the information is insufficient, the Title IX Coordinator, in consultation with OGC, will conduct an initial assessment into the circumstances of the complaint and will notify the complainant of such action in writing:
 - 2.2.2.1 Dismiss it as baseless;
 - 2.2.2.2 Close it for insufficient information to investigate or lack of jurisdiction;
 - 2.2.2.3 Refer it to another office which has responsibility for such complaints; or
 - 2.2.2.4 Refer the complaint to informal resolution with the consent of the parties and approval of SECO. Cases involving allegations based on sex require submission of a formal complaint before they may be referred to informal resolution.
- 2.3 If the information is sufficient, the Coordinator will forward the complaint to an appointed investigative authority (IA) within five (5) business days of the determination to proceed with the investigation.
- 2.4 The Coordinator will provide written notification to the complainant(s) and the respondent(s) of:
 - 2.4.1 Receipt of the complaint stating the allegation of a violation of this regulation;
 - 2.4.2 The appointed investigative authority;
 - 2.4.3 The appointed designated administrator;
 - 2.4.4 Interim supportive measures, if any;
 - 2.4.5 Admonishments regarding cooperation and prohibiting retaliation, and
 - 2.4.6 Any informal resolution process that may be available.
- 2.5 At any point in the process, an employee may be placed on leave of absence with pay, reassigned, and/or placed in another type of temporary status pending completion of the investigation and final resolution of the allegations, by the employee's department head/dean, with the concurrence of the respective vice-president. This is not a disciplinary action.
 - 2.5.1 Notification must be given in writing and include the reasons for placing the employee on leave of absence with pay, reassigned, and/or placed in another type

of temporary status and the terms of the leave, reassignment, and or temporary status.

- 2.5.2 A faculty member placed on leave of absence with pay, reassigned, and/or placed in another type of temporary status may appeal the decision to the Provost by submitting an appeal in writing within five (5) business days of the receipt of the notification. The Provost will conduct the appeal, and may appoint a person or persons to assist in the appeal. The investigation process is not stayed by an appeal. The appeal should be completed within five (5) business days of the receipt of the appeal.
- 2.6 The Title IX Coordinator will promptly contact the parties to discuss the availability of supportive measures, consider the parties' wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Title IX Coordinator will coordinate the effective implementation of supportive measures.
- 2.7 The investigative authority will review each complaint, interview witnesses (if applicable), review relevant documentation, and provide an initial draft report of their investigation via the Title IX Coordinator to OGC for review within 30 business days. OGC will coordinate with SECO and provide its review to the investigative authority within ten (10) business days. The investigative authority will have five (5) business days to create a final draft report. The Title IX Coordinator will share that document electronically with both the complainant and the respondent. The complainant and respondent will have ten (10) business days to review the report and submit written commentary to the investigative authority via the Title IX Coordinator. The investigative authority will then have five (5) additional business days to prepare a final report for review by OGC and SECO, who will have five (5) business days to provide feedback. The latter review provided by OGC and SECO may be waived by mutual agreement between the Title IX Coordinator and OGC/SECO if no substantive changes were made following the initial review. The final report shall be submitted directly to the designated administrator by the Title IX Coordinator.
- 2.8 Time frames for the receipt, investigation, and adjudication of complaints may be extended for good cause with written notice to the complainant and respondent of the delay and/or extension and the reasons therefor. Good cause is to be determined by the Title IX Coordinator in consultation with OGC and SECO and reasonable extensions may be granted at the discretion of the Title IX Coordinator. The investigative authority should send an extension request, if needed, to the Title IX Coordinator. All extensions will be in ten business day increments.
- 2.9 If in the course of an investigation, a member decides to investigate allegations about the complainant or respondent that were not included in the original notice, the Title IX Coordinator will provide notice of the additional allegations to the parties.

- 2.10 Upon a dismissal required or permitted, the Title IX Coordinator will promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties. The parties may appeal a dismissal to the University Ethics & Compliance Officer.
- 2.10.1 The appeal will be confined to a review of the written documentation and pertinent documentations regarding the appeal.
- 2.10.2 The appeal must be filed within five business days of notification of the decision.
- 2.10.3 The Compliance Officer will provide a draft decision to OGC within five business days after receiving the appeal. The final decision will be provided to the complainants(s), the respondent(s), and Title IX Coordinator.
- 2.11 The Title IX Coordinator will provide the final investigative report and exhibits to the parties and conduct the pre-hearing conference.
- 2.12 Title IX (See 08.01.01 §4.2.10)
- 2.13 Sex-based Misconduct (See 08.01.01 §4.2.11)
- 2.14 All Other Civil Rights Complaints (Non sex-based) (See 08.01.01 §4.2.13)

3 DESIGNATED ADMINISTRATORS

- 3.1 Each fiscal year, the vice presidents will appoint at least one director level or above employee to serve as the designated administrator. The designated administrator will render a decision in writing on the merits of the complaint, including the imposition of any sanction(s), unless the imposition of sanctions is otherwise delegated to another administrative authority by the President.
- 3.2 The designated administrator will provide a pre-hearing conference to review the hearing process and well as to explore any available options for informal resolution.
- 3.3 The designated administrator in administrative conference may reach a resolution without a hearing, if all parties agree on both the findings and sanctions.
- 3.4 The designated administrator (a hearing officer or hearing panel) will conduct a formal live hearing if the formal complaint cannot be resolved in administrative conference.
- 3.5 Designated administrators will receive training on civil rights matters and the conduct of investigations. This training is mandatory for all designated administrators prior to their rendering a decision.

4 SANCTIONS

- 4.1 When an employee is found to have discriminated against another member of the university community, the sanction will be dismissal from employment.
- 4.2 The Respondents' vice president will work with the Chief Human Resources Officer to implement the identified sanction(s) imposed in coordination with the Office of General Counsel. (See System Regulation 32.02.02)
- 4.3 Dismissal of a tenured faculty member or dismissal of a probationary faculty member with an unexpired appointment extending beyond the date of dismissal shall follow the process set forth in section 6.5.3 University Rule 12.01.99.R1 *Academic Freedom and Responsibility* after completion of the process identified in this procedure.
- 4.4 The Chief Human Resources Officer will receive a copy of the decision letter and have access to the unredacted IA report with exhibits, which will be located in the UECO. Only the decision letter of substantiated finding(s) will be included in the employee's official personnel file.

5 THIRD PARTY (VENDORS)

- 5.1 The University may require vendors to dismiss or reassign any employee who, in the University's sole discretion, is not adding appropriate values to the services or who hinders the effective delivery of the services, except as prohibited by applicable law.

6 EMPLOYEE APPEAL COMMITTEE (EAC)

- 6.1 The EAC is a committee of twelve (12) employees appointed by the President.
- 6.2 EAC members are charged with the duty and responsibility of appeals of decisions and sanctions involving alleged civil rights violations. A member's two (2) year appointment will commence on the first day of September and shall end on the last day of August, two years later.
- 6.3 EAC members are subject to a conflict of interest challenge by the Complainant(s) or Respondent(s). The Coordinator will rule on the validity of any challenge and such decision shall be final. (Note: Such challenges must relate to the ability of a member to render an unbiased investigation. The mere existence of prior interactions between an EAC member and other individuals involved in the complaint does not necessarily constitute bias.)
- 6.4 EAC members will be required to receive training necessary to perform their function(s).
- 6.5 A panel of three (3) EAC members will be selected by the Title IX Coordinator to conduct the appeal.

7 APPEALS

- 7.1 Appeal of Decision and/or Sanctions – Allegations of Sex Discrimination: With respect to allegations of sex discrimination, including sexual harassment and sex-based misconduct, the designated administrator’s decision and the sanction(s) imposed by the sanctioning authority can be appealed by the complainant(s) and/or the respondent(s), but only on the following bases, as applicable:
 - 7.1.1 A procedural error or omission that significantly impacted the outcome;
 - 7.1.2 New evidence, which was either unknown or unavailable during the investigation that could have significantly impacted the outcome;
 - 7.1.3 Conflict of interest or bias for or against the complainants or respondents generally or individually that affected the outcome, or
 - 7.1.4 The appropriateness or severity of the sanctions.
- 7.2 The appeal must be received by the Title IX Coordinator within five business days of notification of the decision. The Title IX Coordinator will notify the other party in writing when an appeal is filed; and implement appeal procedures equitable for both parties.
- 7.3 The Title IX Coordinator will forward the appeal to the EAC. EAC will provide the Title IX Coordinator a draft decision for OGC review within five business days from the date of receipt, unless circumstances require additional time, requested from the Title IX Coordinator, who will notify the parties. The EAC will have five additional business days to finalize the decision and provide to the Title IX Coordinator, who will provide the decision to the Complainant(s), the Respondent(s), and the IA.
- 7.4 The EAC may reach one of the following outcomes:
 - 7.4.1 Affirm the original finding and sanction;
 - 7.4.2 Affirm the finding and modify the sanction; or
 - 7.4.3 Remand the case to a new hearing or review.
- 7.5 Appeals – Allegations of Discrimination Not Based on Sex. Any employee disciplined pursuant to the Regulation may appeal the appropriateness or severity of the sanctions:
 - 7.5.1 The appeal must be received by the Title IX Coordinator within five business days of notification of the decision.

7.5.2 The Title IX Coordinator will forward the appeal to the EAC. EAC will provide the Title IX Coordinator a draft decision for OGC review within five business days from the date of receipt, unless circumstances require additional time, requested from the Title IX Coordinator, who will notify the parties. The EAC will have five additional business day to finalize the decision and provided to the Title IX Coordinator, who will provide the decision to the Complainant(s), the Respondent(s), and the IA.

7.5.3 The EAC may affirm the original sanction; modify the sanctions; or remand the case to a new hearing or review.

7.6 Employees appealing sanctions issued pursuant to this regulation will receive an unredacted copy of the investigation report and exhibits, upon request, with admonishments regarding privacy.

7.7 Appeals of decision and/or sanctions must be received by the Title IX Coordinator within the applicable timeframe specified in section 7.2. Otherwise, the findings will become final.

8 INFORMAL RESOLUTION

The Human Resource Office is responsible for the Informal Resolution process.

Related Statutes, Policies, or Requirements

[Texas Labor Code, Chapter 21, Employment Discrimination](#)

System Policy [08.01, Civil Rights Protections and Compliance](#)

System Regulation [08.01.01, Civil Rights Compliance](#)

System Regulation [32.02.02, Discipline and Dismissal of Nonfaculty Employees](#)

University Rule [08.01.01.R2 Civil Rights Compliance](#)

University Rule [12.01.99.R1 Academic Freedom and Responsibility](#)

Contact Office

University Ethics & Compliance Office
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